

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-2, 4-5, 7, 15, 24, 52 and 55 are requested to be cancelled.

Claims 3, 6, 8, 9-10, 14, 17, 25-28, 32-45, 47-50, 53, 56, and 61 are currently being amended.

After amending the claims as set forth above, Claims 3, 6, 8-14, 16-23, 25-51, 53-54 and 56-61 are now pending in this application of which Claims 3, 9, 14, 28, 41, 44 are independent.

Claims 18-20, 29-31, and 51 are withdrawn pending allowance of a claim from which they depend.

### **Priority Document**

On page 2 of the Office Action, the Examiner states that Applicant has yet to file a certified copy of German patent application 201 19 410.4 under 35 U.S.C. §119(b). Per the Examiner's request, Applicant provides an English translation of a letter from the German Patent and Trademark Officer indicating the unavailability of a certified copy of the application. Specifically, the letter indicates that German patent application 201 19 410.4 "was destroyed as is customarily done on an annual basis at the beginning of 2005." It is believed that this letter is fully responsive to the Examiner's request for certified priority documents.

### **Claim Rejections – 35 USC § 112**

On pages 2-3 of the Office Action, Claims 3, 6, 8-14, 16, 17, 21-28, 32-50 and 52-61 were rejected under 35 USC 112, second paragraph, as being indefinite. The use of the phrase

“may be” has been eliminated. In each of the above-referenced claims sufficient structure is recited to support any functional recitations. Said functional recitations include structural elements for which the appropriate antecedent basis has been established. For example, the Examiner cites Claim 9 as a example of a functional recitation without adequate structure to support the functional recitation. Amended Claim 9 recites,

An entertainment system for a vehicle having a forward direction of travel, comprising:  
a display configured to display images to a passenger in the vehicle, the display configured to be mounted to a seat of the vehicle;  
wherein the display is configured to pivot with respect to the seat; and  
wherein the display is configured to pivot opposite the forward direction of travel against action of a spring member and configured to pivot in the forward direction of travel against action of a damper member, the damper member operating separately from the spring member. (underlining added for emphasis).

The seat and pivot of Claim 9 precede the functional recitation. Therefore, sufficient structure is disclosed to describe their relationship with respect to each other. Moreover, Applicant provides at least one example of an embodiment of the invention as recited in Claim 9. For example, as disclosed in Paragraph [0033] and shown in FIG. 5, a base part 26 may be used with the display so that it may pivot with respect to the seat. While this is, of course, not the only example of structure that may be utilized to accomplish the function of pivoting the display with respect to the seat it does provide a clear example of a sufficient teaching of structure enabling the recited functionality. Accordingly, it is respectfully requested that the Examiner’s rejection be withdrawn.

**Claim Rejections – 35 USC § 102**

On pages 3-7 of the Office Action, Claims 3, 6, 8-14, 16-17, 21-23, 25-28, 32-50 and 52-61 were rejected as anticipated by one or more of Kanda (5,316,369), Shafer (1,178,107), and Sakurai (5,529,265).<sup>1</sup>

**A. Claims 3, 6, 8, 10-13, 16-17, 21-23, 25-27, 53 and 54**

On pages 3-4 of the Office Action, Claims 3, 6, 8, 10-13, 16-17, 21-23, 25-27, 53 and 54 were rejected as anticipated by Kanda (5,316,369). Amended Claim 3 recites,

An entertainment system for a vehicle having a forward direction of travel, comprising:  
a display configured to display images to a passenger in the vehicle, the display configured to be mounted to a seat of the vehicle;  
wherein the display is pivotable with respect to the seat; and  
wherein the display is configured to pivot opposite the forward direction of travel against action of a spring member, the spring member applying a return torque in the forward direction of travel;  
wherein the display is in an upper region of a seatback of the seat. (underlining added for emphasis).

Kanda does not disclose a “display [which] is in an upper region of a seatback of the seat.” Rather, Kanda teaches a display mountable in a lower region or area of the seat – an “armrest 1 [which] is provided with two adjoining cavities 2 under a cocktail tray 3 formed in the front portion of its upper wall to house the two television sets 4 each having a comparatively large plate-shaped liquid crystal display unit 5.” Column 3, lines 20-24. An armrest is clearly not “in an upper region of a seatback of the seat” as recited in Amended Claim 3. Each and every element recited in Claim 3 is not found in Kanda. Therefore, it is respectfully requested that the rejection of Claim 3 and its progeny be withdrawn.

With regards to Claim 13, there is no teaching in Kanda that “the first torque is about an amount of force equal to acceleration forces produced by a rear collision” as recited in Claim 13.

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<sup>1</sup> For a rejection to be proper under 35 U.S.C. §102(b), every element and limitation found in the rejected claim must be found in the 102(b) reference. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, §14F.2d628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See also, MPEP §2131.

Kanda does disclose “an elastic member 29, such as a spring, extended between the wall of the cavity 2 and the swing member 28 so as to urge the roller 28c toward the opening of the cavity 2.” Column 5, lines 53-56. There is no disclosure regarding “an amount of force equal to acceleration forces produced by a rear collision” as recited in Claim 13. Therefore the rejection of Claim 13 should be withdrawn.

**B. Claims 41-43, 45-50 and 58-61**

On page 5 of the Office Action, the Examiner rejected Claims 41-43 and 58-61 under 35 U.S.C. § 102(b) as being anticipated by Kanda. Independent Claim 41 has been amended in a similar fashion to Claim 3. Therefore, Amended Claim 41 and its progeny are allowable for at least the reasons articulated with regards to Claim 3.

On page 7 of the Office Action, the Examiner rejected Claims 41-43, 45-50 and 58-61 under 35 U.S.C. § 102(b) as being anticipated by Shafer (1178107). Amended Claim 41 recites, “a display screen configured to display images to a passenger in the vehicle, the display screen configured to be mounted to the vehicle”. (underlining added for emphasis). The Shafer reference does not teach a display screen, rather it teaches “a card holder 4 which may be of any suitable or desired construction in which a plurality of cards C may be mounted with their advertising faces disposed outwardly... .” Page 1, lines 63-68. Since the Shafer reference fails to teach every element and limitation as recited in Claim 41 (and its progeny) it is respectfully requested that the rejection be withdrawn.

**C. Claims 44, 46-48 and 50**

On page 5 of the Office Action, the Examiner rejected Claims 44, 46-48 and 50 under 35 U.S.C. § 102(b) as being anticipated by Kanda. Claims 46-48 and 50 depend from Claim 41 and are believed to be allowable for at least the reasons articulated with regards to Claim 41.

With regards to Claim 44, Kanda does not disclose all of the elements and limitations recited in (amended) Claim 44. For example, Claim 44 recites,

An entertainment system for a vehicle having a forward direction of travel, comprising:

a display configured to display images to a passenger in the vehicle, the display configured to be mounted to the vehicle;

wherein the display is pivotable in the forward direction of travel by generating a first torque and pivoted farther in the forward direction of travel by generating a second torque of greater force than the first torque.

wherein the display is pivotable opposite to the forward direction of travel by a third torque and wherein the second torque requires at least eight times as much force as the third torque.

Claim 44 recites a relationship between the second and third torque -- “second torque requires at least eight times as much force as the third torque.” The Examiner offers no teaching nor disclosure of the same by Kanda. Since this limitation is not present in the Kanda reference the rejection of Claim 44 under 102(b) should fail.

On page 7 of the Office Action with regards to the Shafer reference, the Examiner offers no teaching nor disclosure of the specific relationship between the second and third torque -- “second torque [which] requires at least eight times as much force as the third torque” by Shafer. The Shafer reference discloses, an “arrangement of the keeper for receiving the free end of the lever 6 provides for [a] movement and adapts the lever to move with the seat-back until one edge thereof consists with one end of the keeper...”. Page 2, lines 10-13. Shafer does not disclose a “second torque [which] requires at least eight times as much force as the third torque”. Since this limitation is not present in the Shafer reference the rejection of Claim 44 under 102(b) should fail.

On page 7 of the Office Action, the Examiner rejects Claim 44 under 35 U.S.C. § 102(b) as being anticipated by Sakurai (5529265). The Examiner offers no teaching nor disclosure of the specific relationship between the second and third torque -- “second torque [which] requires at least eight times as much force as the third torque.” by Sakurai. The Sakurai reference does disclose,

If at this time the lower portion of the liquid crystal monitor unit 10c is thrust manually, the liquid crystal monitor unit 10 is rotated downwards

with the spherical-shaped support 7 as a fulcrum point against the bias exerted by the resilient arms 8A, 8B and the resilient supporting member 8 on the rotation supporting fulcrum member 12, by the above-described operation, as indicated by a chain-dotted line in FIG. 4, and hence the display surface 11 is adjusted to a position matched to the line of sight of the viewer.

General discussions of rotating a display to “a position matched to the line of sight of the viewer” is not the same as a teaching of a “display... pivotable opposite to the forward direction of travel by a third torque and wherein the second torque requires at least eight times as much force as the third torque.” Shafer does not disclose a “second torque [which] requires at least eight times as much force as the third torque”. Since this limitation is not present in the Sakurai reference the rejection of Claim 44 under 102(b) should fail.

#### **D. Claims 9 and 55-57**

On page 5 of the Office Action, the Examiner rejected Claims 9 and 55-57 under 35 U.S.C. § 102(b) as being anticipated by Kanda. Independent Claim 9 has been amended in a similar fashion to Claim 3. Therefore, Amended Claim 9 and its progeny are allowable for at least the reasons articulated with regards to Claim 3.

#### **E. Claim 14**

On page 5 of the Office Action, the Examiner rejected Claim 14 under 35 U.S.C. § 102(b) as being anticipated by Kanda With. Claim 14 (as amended) recites,

An entertainment system for a vehicle having a forward direction of travel, comprising:

a display configured to display images to a passenger in the vehicle, the display configured to be mounted to a seat of the vehicle;

wherein the display is configured to pivot with respect to the seat

wherein the display is configured to pivot in the forward direction of travel;

wherein the display is pivotable in the forward direction of travel by generating a first torque pivotable farther in the forward direction of travel by generating a second torque of greater force than the first torque;

wherein the first torque is about an amount of force equal to acceleration forces produced by a rear collision; and  
wherein the second torque is at least four times as great as the first torque.

First, there is no teaching in Kanda of a “display [which] is pivotable in the forward direction of travel by generating a first torque pivotable farther in the forward direction of travel by generating a second torque of greater force than the first torque.” Kanda does disclose “an elastic member 29, such as a spring, extended between the wall of the cavity 2 and the swing member 28 so as to urge the roller 28c toward the opening of the cavity 2.” Column 5, lines 53-56. A general discussion of an elastic member 29 is not the same as such a specific discussion as “generating a first torque pivotable farther in the forward direction of travel by generating a second torque of greater force than the first torque.” There is no disclosure regarding “generating a first torque pivotable farther in the forward direction of travel by generating a second torque of greater force than the first torque.” Therefore the rejection of Claim 14 should be withdrawn.

To the same point, Claim 14 further recites, “the first torque is about an amount of force equal to acceleration forces produced by a rear collision”. There is no such teaching in Kanda. Therefore the rejection of Claim 14 should be withdrawn.

#### **F. Claims 28 and 32-40**

On page 6 of the Office Action, Claims 28 and 32-40 were rejected as anticipated by Shafer (1178107). Amended Claim 28 recites, “a display screen configured to display images to a passenger in the vehicle, the display screen configured to be mounted to the vehicle”. The Shafer reference does not teach a display screen, rather it teaches “a card holder 4 which may be of any suitable or desired construction in which a plurality of cards C may be mounted with their advertising faces disposed outwardly... .” Page 1, lines 63-68. Since the Shafer references fails to teach every element and limitation as recited in Claim 28 (and its progeny) it is respectfully requested that the rejection be withdrawn.

#### **G. Claims 41-43, 46, 48-50 and 58-61**

On page 7 of the Office Action, the Examiner rejected Claims 41-43, 46, 48-50 and 58-61 under 35 U.S.C. § 102(b) as being anticipated by Sakurai (5529265). Claim 41 (as amended) recites,

An entertainment system for a vehicle having a forward direction of travel, comprising:

a display screen configured to display images to a passenger in the vehicle, the display screen configured to be mounted to the vehicle;

wherein the display screen is pivotable in the forward direction of travel by generating a first torque and pivoted farther in the forward direction of travel by generating a second torque of greater force than the first torque;

wherein the display screen is configured to pivot around an axis extending in the transverse direction of a seat of the vehicle in an upper region of a seatback of the seat. (underlining added for emphasis).

Sakurai do not teach a display screen that “is pivotable in the forward direction of travel by generating a first torque and pivoted farther in the forward direction of travel by generating a second torque of greater force than the first torque”. Moreover, the Examiner does not point to any such teaching in the Sakurai reference. For a rejection to be proper under § 102(b) each and every element must be present in the prior art reference. Therefore, it is respectfully requested that the rejection be withdrawn.

### **Conclusion**

Appropriate correction is believed to have been made to these claims, and these claims are believed to overcome this rejection. Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or



credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date           /October 6,2006/          

By           s/K. J. Downing/          

FOLEY & LARDNER LLP  
Customer Number: 26371  
Telephone: (414) 297-5576  
Facsimile: (414) 297-4900

Kristy J. Downing  
Attorney for Applicants  
Registration No. 56,671

**German Patent and Trademark Office**

Munich, April 28, 2006

Telephone: +49-89-2195-4347

Ref. No.: 201 08 701.4

Applicant/Holder: see address

German Patent and Trademark Office – 80297 Munich

Johnson Controls GmbH  
Attn.: Mrs. Martina Tiedemann  
Industriestr. 20-30  
51399 Burscheid

Your Ref. 01033/DE-GM

**Please indicate ref. no. and  
applicant in all correspondence.**

(stamp: Received  
May 3, 2006)

Re.: Vehicle Seat with Integrated Video Display Terminal

Dear Mrs. Tiedemann,

According to Ordinance No. 21 of the German Patent and Trademark Office, the retention period for files relating to utility model applications that did not result in recordation is three years, starting with the expiration of the year in which the application was completed.

The application with the reference number 201 08 701.4 has been considered retracted since 11/29/2001 because an internal priority was claimed in the application with reference number 201 19 410.4. This is the case when priority was declared prior to the recordation of the previous application. The retention period therefore ended at the end of 2004. The file was destroyed as is customarily done on an annual basis at the beginning of 2005.

I would like to point out that a copy of the previous application can be found in the file of the subsequent application.

Kind regards,  
Utility Model Division

(signed)  
Niggebaum  
Office Councillor

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Cincinnatistraße 84

**Building Address (for freight)**  
German Patent and Trademark Office  
Zweibrückenstraße 12  
D-80331 Munich

**Telephone** +49-89-2195-0  
**Telefax** +49-89-2195-2221  
**Internet:** <http://www.dpma.de>

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